

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

LEA R. SWINK)
1429 WILSON AVENUE)
LIMA, OHIO 45805) Removal from Allen County Court of
) Common Pleas Case No. CV2020-0204
Plaintiff,)
)
V)
)
REINHART FOODSERVICE, LLC,)
6720 NORTH 9TH STREET)
OMAHA, NEBRASKA 68101)
)
and)
)
BAOKU OJO MOSES,)
1310 BANKLICK STREET)
COVINGTON, KENTUCKY 41011)
)
Defendants.

REINHART FOODSERVICE, LLC and BAOKU MOSES NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT Defendants Reinhart Foodservice, LLC and Baoku Moses hereby submit this Notice of Removal Under **28 U.S.C. §1332, 28 U.S.C. §1441(a) and (b)** and hereby removes to this court the State Court Action *Lea R. Swink v. Reinhart Foodservice, LLC and Baoku Moses*, case number CV2020-0204, filed in the Court of Common Pleas of Ohio, Allen County, on the grounds and for the reasons that this Court has original jurisdiction under 28 U.S.C. §1332, 28 U.S.C. §1441(a) and (b) *et seq.* Diversity of citizenship exists between Plaintiff Lea R. Swink and Defendants, and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

Please take further notice that a true and correct copy of this Notice or Removal is being served and filed concurrently with the Clerk of the Court of Common Pleas of Allen County, Ohio as an exhibit to the Notice of Removal being filed in that Court.

- **INTRODUCTION**

- This action arises out of an Allen County, OH motor vehicle accident that occurred on July 2, 2018.

- **PROCEDURAL HISTORY AND COMPLAINT**

- On July 9, 2020, a civil action was filed in the Common Pleas Court, Allen County styled *Lea R. Swink v. Reinhart Transport, LLC and Baoku Moses*, case number CV2020-0204 (hereinafter the "State Court action"). A copy of the Plaintiff's Complaint is attached hereto and incorporated herein as ***Exhibit A***.
 - On July 23, 2020, Plaintiff amended her Complaint, substituting Reinhart Transport, LLC for Reinhart Foodservice, LLC.
 - The undersigned counsel accepted service of the Amended Complaint for Defendants August 24, 2020.

- **DIVERSITY JURISDICTION**

- The State Court action brought by the Plaintiffs is wholly of a civil nature over which the United States District Court, Northern District of Ohio has original jurisdiction pursuant to **28 U.S.C. §1331** and **28 U.S.C. §1337**. Said action is one that may be removed by the Defendants pursuant to **28 U.S.C. §1441(a)** and **(b)**, as the State Court Action is based upon personal injury that occurred in Allen County, Ohio.

- This case is a civil action over which this court has diversity jurisdiction, pursuant to **28 U.S.C. Sec. 1332**. Specifically, the incident which gives rise to Plaintiff's cause of action occurred in the County of Allen, State of Ohio. The Plaintiff resides in and is a citizen of the County of Lima and State of Ohio. (*Exhibit A* – Amended Complaint, paragraph 2). Defendant Reinhart Foodservice, LLC, is a limited liability company that is a wholly owned subsidiary of Performance Good Group, Inc. Performance Good Group Inc., is a corporation of the State of Colorado with a principal place of business in Richmond, Virginia. Defendant Baoku Moses resides in and is a citizen of the State of Kentucky.
- This Court has diversity jurisdiction over this matter pursuant to **28 U.S.C. 1332** based upon complete diversity of citizenship and because the amount in controversy in this matter, computed on the basis of all claims to be determined in this suit, presumably exceeds the jurisdictional sum or value of \$75,000.00, exclusive of interest and costs. In support of this allegation, the Defendants submit the following facts and reasons: Plaintiff, Lea R. Swink is seeking damages for alleged injuries from an alleged motor vehicle accident, including, as described in the Complaint, severe, permanent, and substantial physical injuries; lost wages; permanent loss of enjoyment of life; and emotional distress.
- Although the Defendants deny any liability, if the above allegations are all proven to be true and all proven to be related to the accident, the amount in controversy and the value of the damages sought by Plaintiff exceed the sum or value of \$75,000.00 exclusive of interest, costs and attorney fees.

- **NOTICE TO STATE COURT**

- Concurrent with the filing of this Notice of Removal, written notice of the filing of the same is being served upon Plaintiff and is being filed with the Clerk of the Court for the Court of Common Pleas in Allen County, Ohio.
- By removing this action to this Court, Defendants do not waive any defenses, objects, or motions available to them under state or federal law. Defendants hereby expressly reserve their right to move for dismissal of Plaintiff's claims pursuant to Rule 12 of the Federal Rules of Civil Procedure. See F.R.C.P 81(c)(1),(2).
- Based on the foregoing, all of the requirements for removal based upon diversity citizenship have been met.
- A Notice of Filing Notice of Removal to Federal Court and a copy of this Notice of Removal of Action to Federal Court have been filed with the Common Pleas Court, Allen County, State of Ohio as required by **28 U.S.C. 1446(d)** and copies of the same have been served upon all counsel as verified by the attached proof of service.
- Based upon the foregoing, the parties are entitled to remove this action to this Court under **28 U.S.C., 1332 and 28 USC 1446(a) and (b)**.
- This Notice of Removal is filed in compliance with **Rule 11 of the Federal Rules of Civil Procedure.**
- The Defendants reserve all defenses, including but not limited to, those under **Rule 12(b) of the Federal Rules of Civil Procedure** and do not waive said defenses by the filing of this Notice.

WHEREFORE, the Defendants, REINHART FOODSERVICE, LLC and BAOKU MOSES, respectfully pray that the above-entitled action now pending against it in the Common Pleas Court, Allen County Ohio, case number CV2020-0204, be hereby removed fro the above-referenced Common Pleas Court to the United States District Court for the Northern District of Ohio.

Dated: September 4, 2020

Respectfully submitted,

By: /s/ Geoffrey A. Belzer
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CERTIFICATE OF SERVICE

A copy of the foregoing has been filed with the Court via facsimile and a copy sent by email this day of September 4, 2020, to the following:

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